

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANTHONY EUGENE LEWIS,

Plaintiff,

vs.

ELDON VAIL, JEFF UTTECHT,
DR. QUIGGLE, and DAVID
BAILEY,

Defendants.

NO. CV-10-042-CI

ORDER ADOPTING REPORT AND
RECOMMENDATION, DENYING
APPLICATION TO PROCEED *IN FORMA*
PAUPERIS AND DENYING PENDING
MOTIONS AS MOOT

BEFORE THE COURT is Magistrate Judge Imbrogno's Report and Recommendation to deny Mr. Lewis's application to proceed *in forma pauperis* under 28 U.S.C. § 1915(g) (Ct. Rec. 12). The Report and Recommendation referenced at least five different cases filed by Mr. Lewis which were dismissed as frivolous, malicious, or for failure to state a claim in the Eastern and Western Districts of Washington, three of which were dismissed more than eight years ago. The Magistrate Judge also recommended Plaintiff's pending motions (Ct. Recs. 4, 5, and 8) be dismissed as moot.

Since that time, Plaintiff has filed several more motions, including a "Motion for Limited Appointment of Counsel to Hold an Evidentiary Hearing on the Merits of the Case for Persuasion to the Court That Plaintiff is in Imminent Danger of Serious Physical Injury of Involuntary Commitment to a Mental Health Facility for Treatment Unwanted Nor Needed" (Ct. Rec. 9), a "Motion for Presentation of Documents Submitted to District Judge While Case is Currently Being Reviewed by the Court" (Ct. Rec. 13, consisting of

1 173 pages), and a “Motion for Appointment of Counsel, Declaration and Temporary
2 Restraining Order and Preliminary Injunction to Mail to the Court His Motion for
3 Objection and Serve the Attorney General and Mail Out Legal Materials and Request
4 Telephone Conference to Inform the Court” (Ct. Rec. 16).

5 As found by the Magistrate Judge, Plaintiff presented no facts in his complaint
6 from which the court could infer he was under imminent danger of serious physical injury
7 at the time he submitted the complaint to the court. His subsequent documents and
8 assertions do not change this fact. Therefore, for the reasons set forth above and by the
9 Magistrate Judge, **IT IS ORDERED** the Report and Recommendation is **ADOPTED IN**
10 **ITS ENTIRETY** and Plaintiff’s application to proceed *in forma pauperis* is **DENIED**.

11 **IT IS FURTHER ORDERED** all presently pending Motions (Ct. Recs. 4, 5, 8, 9,
12 13 and 16) are **DENIED as moot**. Plaintiff was directed to remit the \$350.00 filing fee
13 within twenty (20) days of March 10, 2010. If the court is not in receipt of those funds
14 by **March 31, 2010**, this action will be summarily dismissed for failure to prosecute. The
15 court will entertain no further motions until the filing fee is paid in full.

16 **IT IS SO ORDERED.** The District Court Executive is directed to enter this Order
17 and SET A CASE MANAGEMENT DEADLINE ACCORDINGLY.

18 **DATED** this 26th day of March 2010.

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20 *S/ Lonny R. Suko*

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LONNY R. SUKO
23 CHIEF UNITED STATES DISTRICT JUDGE
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